

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

JOHN CARLISLE,)
)
Plaintiff,)
)
vs.) Case No. 05-0995-CV-W-ODS
)
)
HITACHI KOKI U.S.A. LTD;)
HITACHI HOKI CO., LTD; and)
HOME DEPOT U.S.A., INC.,)
)
Defendants.)

ORDER AND OPINION DENYING
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Defendants' Motion for Partial Summary Judgment (Doc. # 103) is denied. There are disputed issues of material fact that preclude entry of judgment as a matter of law on Plaintiff's claim for punitive damages.

This does not mean, however, that the Court has decided a submissible case for punitive damages has been established. This matter is best determined at trial after evidence has been admitted. Until the Court concludes a submissible case has been made the parties shall not be permitted to mention the issue in the jury's presence (including during opening statements) or admit evidence regarding Defendants' net worth.

IT IS SO ORDERED.

DATE: April 10, 2007

/s/ Ortrie D. Smith

ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT